

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Braintree Electric Light Department,)
Hingham Municipal Lighting Plant,)
Hull Municipal Lighting Plant,)
Mansfield Municipal Electric Department,)
Middleborough Gas & Electric Department,))
and Taunton Municipal Light Plant,)

v.)

Docket No. EL-08-48-000

ISO New England Inc.)

**NOTICE OF INTERVENTION OF
MASSACHUSETTS DEPARTMENT OF PUBLIC UTILITIES**

Pursuant to Rule 214(a)(2) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. § 385.214(a)(2), and the Commission’s Notice of Complaint dated April 1, 2008, the Department of Public Utilities of the Commonwealth of Massachusetts (“Mass DPU”) hereby files its Notice of Intervention in the above-captioned proceeding. This proceeding relates to a complaint filed by Braintree Electric Light Department, Hingham Municipal Lighting Plant, Hull Municipal Lighting Plant, Mansfield Municipal Electric Department, Middleborough Gas & Electric Department, and Taunton Municipal Light Plant (collectively, “Complainants”), filed against ISO New England Inc. (“ISO-NE”). The Complainants claim that ISO-NE, by characterizing costs for dispatching the Canal Generating Station out-of-merit as Local Second Contingency Protection Resource (“LSCPR”) charges, overcharged the Complainants approximately \$24 million in 2006 and 2007. The Complainants seek an Order requiring ISO-NE to reclassify the charges under the existing tariff, or in the alternative, to find the tariff unjust and unreasonable. In

either event, the Complainants request that the charges no longer be allocated to them and that ISO-NE be ordered to refund LSCPR Charges collected since December 27, 2007.¹

I. COMMUNICATIONS

The Mass DPU requests that the individual identified below be placed on the Commission's official service list in this proceeding and that all communications concerning this filing and future filings in this proceeding should be directed to:

John J. Keene, Jr.
Counsel
Department of Public Utilities
Commonwealth of Massachusetts
One South Station, Second Floor
Boston, Massachusetts 02110
Tel: (617) 305-3624
Fax: (617) 345-9103
E-mail: John.J.Keene@state.ma.us

II. INTERVENTION

The Mass DPU is the agency of the Commonwealth of Massachusetts charged with general regulatory supervision over gas and electric companies in Massachusetts and has jurisdiction to regulate rates or charges for the sale of electric energy and natural gas to consumers. Massachusetts General Laws c. 164, § 76 et seq. Therefore, the Mass DPU is a "state commission" as defined by 16 U.S.C. § 796(15) and 18 C.F.R. § 1.101(k). This notice of intervention has been filed within the period established under Rule 210(b). Accordingly, the Mass DPU may intervene in this proceeding pursuant to Rule 214(a)(2).

¹ Three months prior to the filing of the complaint, as contemplated by the settlement accepted by the Commission in Docket no. ER07-921.

III. COMMENTS

The Southeastern Massachusetts reliability region (“SEMA”) has very high consumer electricity rates. Accordingly, the Mass DPU is very concerned about the high costs of electricity in SEMA, in general, and the high costs of frequent out-of-merit operation of the Canal Generating Station in Sandwich, Massachusetts (“Canal”), in particular. Thus, the Mass DPU is pursuing policies² and engaging regional stakeholders in an effort to identify methods of reducing electricity costs in Massachusetts and in SEMA, in particular. In addition, the Mass DPU has expeditiously addressed proposals for new transmission infrastructure in the SEMA region when brought before it. For example, the Mass DPU recently approved the short-term transmission infrastructure improvements in SEMA referenced in ISO-NE’s short term report, which will reduce the hours in which Canal will be run out-of-merit.³

However, although the Mass DPU shares the Complainants concerns over the high costs of running Canal out-of-merit, the Mass DPU has some concerns raised by the Complaint that the Commission should consider:

² E.g., the Mass DPU is seeking paths to an aggressive expansion of energy efficiency and other distributed resources, and has opened proceedings investigating utility rate decoupling and other options with potential to support such efforts. See Investigation into Rate Structures that will Promote Efficient Deployment of Demand Resources, D.P.U. 07-50.

³ See NSTAR Electric Company, D.P.U. 07-60/ 07-61 (2008).

A. Cost Causation & Allocation

The Complainants' argue that the tariff does not allow ISO-NE to assess LSCPR charges for running Canal out-of-merit because ISO-NE could meet applicable reliability criteria by other, less expensive, means, i.e., by using post first contingency switching ("PFCS") or special protection systems("SPS"). The Complainants' argue, in the alternative, that the tariff is unjust and unreasonable because it allocates cost to the Complainants that they do not cause and from which they do not benefit. The Complainants state that this case is about "deciding which customers should pay the cost of avoiding the risk of service outages through the out-of-merit operation of Canal."⁴ The Complainants assert that the Commission has espoused a principle of cost allocation based on cost causation and cost benefit. They argue that the classification of charges for the out-of-merit operation of Canal as LSCPR is inconsistent with this principle.

The Commission has stated that cost allocation should fairly assign costs among participants, including those that cause them to be incurred and those who otherwise benefit from them.⁵ Under the current tariff and the established reliability regions are consistent with this principle in that LSCPR charges are allocated to customers in SEMA, the region in which these costs are incurred.

Thus, the question raised by the Complainants is not simply one of cost allocation between different groups of customers but more importantly one of degree. Although the Commission has supported a general principle of cost causation, it has not, to our knowledge,

⁴ Complaint at ¶ 14.

⁵ See Order 890 ¶ 559.

required any particular level of granularity in determining the level at which costs should be allocated. Certainly, it would be unreasonably difficult and burdensome to identify, on a customer-by-customer basis, those that cause costs to be incurred and those that benefit.

The Complainants suggest that LSCPR costs in SEMA should be allocated at a level below the current reliability region. The Complainants assert that the SEMA reliability region is electrically divided between an ‘upper’ and ‘lower’ SEMA, and suggest that one method for remedying the cost allocation would be to subdivide the region into two smaller regions for cost allocation purposes.

At this time, the Mass DPU , subject to our further review of related technical information, takes no position on the suggestion that the SEMA reliability region be subdivided. Nonetheless, with many transmission improvements constantly being made, the periodic reevaluation of the established reliability regions is appropriate. The Mass DPU strongly believes that such reevaluation of the reliability regions should be examined through the regional stakeholder process in New England. Such evaluation should not take place in a piecemeal fashion as is essentially being proposed by the Complainants. Only through a regional stakeholder process can the region adequately: (i) understand the engineering characteristics that may (or may not) support further division or merger of existing reliability regions, (ii) weigh the advantages and disadvantages of such actions, and (iii) assess the implications for other areas within the New England Control area.

B. Load Shedding

The Complainants claim that they are not asserting that Cape Cod⁶ customers should be exposed to the risk of load shedding, i.e., blackouts. However, they also repeatedly claim that the costs incurred are “unnecessary” costs, implying that ISO-NE should operate the system in a way that would avoid costs for running Canal out-of-merit, i.e., using PFCS or SPS. Our concern is that operating the system in that manner may also expose Cape Cod customers to a greater risk of blackouts.

The Complainants characterize the risks of such a contingency as quite small. From a statistical perspective that may be true, however, as recently as December 2003 a series of contingencies occurred that resulted in a blackout of approximately 300,000 customers on Cape Cod.⁷ That blackout resulted not only in substantial economic losses for businesses on the Cape but also jeopardized human health and safety across a significant portion of our state’s population.⁸ Accordingly, the Mass DPU believes that the Complainants have not sufficiently considered or addressed the potential health, safety and public welfare consequences of shedding load. It is the Commission’s obligation to ensure a full and comprehensive review of such risks, as well as the potential social and economic consequences of operational decisions that may result from the shedding of load.

⁶ Cape Cod is within SEMA.

⁷ See Joint Report of ISO New England, National Grid and NSTAR Electric on the Cape Cod Outage of December 1, 2003 (issued December 19, 2003) available at http://www.iso-ne.com/pubs/spcl_rpts/2003/joint_report_cape_cod_outage.pdf.

⁸ In fact, at least one death has been attributed to this event. See *Man hurt during blackout dies*, Cape Cod Times (December 4, 2003).

IV. CONCLUSION

WHEREFORE, for the foregoing reasons, the Mass DPU respectfully requests that the Commission accept this Notice of Intervention and consider the Mass DPU's comments.

Respectfully submitted,

MASSACHUSETTS DEPARTMENT OF
PUBLIC UTILITIES

By its attorney,

/s/ John J. Keene, Jr.

John J. Keene, Jr.
Massachusetts Department of
Public Utilities
One South Station, Second Floor
Boston, MA 02110
Phone 617-305-3500
Fax 617-345-9103
E-mail John.J.Keene@state.ma.us

Date: April 28, 2008

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document upon each party on the official service list compiled by the Secretary in this proceeding in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.2010.

Dated at Boston, Massachusetts, this 28th day of April, 2007.

/s/ John J. Keene, Jr.
John J. Keene, Jr.